

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 293

(SENATE AUTHORS: CLAUSEN, Tomassoni, Bonoff, Housley and Chamberlain)

DATE	D-PG	OFFICIAL STATUS
01/26/2015	126	Introduction and first reading Referred to Taxes
02/02/2015	194	Withdrawn and re-referred to Higher Education and Workforce Development
02/26/2015	418a	Comm report: To pass as amended and re-refer to Taxes

A bill for an act

1.1 relating to taxation; income; establishing a credit and subtraction for certain
 1.2 contributions for higher education expenses; amending Minnesota Statutes 2014,
 1.3 section 290.01, subdivision 19b; proposing coding for new law in Minnesota
 1.4 Statutes, chapter 290.
 1.5

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 290.01, subdivision 19b, is amended to read:

1.8 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
 1.9 and trusts, there shall be subtracted from federal taxable income:

1.10 (1) net interest income on obligations of any authority, commission, or
 1.11 instrumentality of the United States to the extent includable in taxable income for federal
 1.12 income tax purposes but exempt from state income tax under the laws of the United States;

1.13 (2) if included in federal taxable income, the amount of any overpayment of income
 1.14 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
 1.15 is received as a refund or as a credit to another taxable year's income tax liability;

1.16 (3) the amount paid to others, less the amount used to claim the credit allowed under
 1.17 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 1.18 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 1.19 transportation of each qualifying child in attending an elementary or secondary school
 1.20 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
 1.21 resident of this state may legally fulfill the state's compulsory attendance laws, which
 1.22 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 1.23 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 1.24 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
 1.25 "textbooks" includes books and other instructional materials and equipment purchased

2.1 or leased for use in elementary and secondary schools in teaching only those subjects
2.2 legally and commonly taught in public elementary and secondary schools in this state.
2.3 Equipment expenses qualifying for deduction includes expenses as defined and limited in
2.4 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
2.5 books and materials used in the teaching of religious tenets, doctrines, or worship, the
2.6 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.7 or materials for, or transportation to, extracurricular activities including sporting events,
2.8 musical or dramatic events, speech activities, driver's education, or similar programs. No
2.9 deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or
2.10 the qualifying child's vehicle to provide such transportation for a qualifying child. For
2.11 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
2.12 given in section 32(c)(3) of the Internal Revenue Code;

2.13 (4) income as provided under section 290.0802;

2.14 (5) to the extent included in federal adjusted gross income, income realized on
2.15 disposition of property exempt from tax under section 290.491;

2.16 (6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E)
2.17 of the Internal Revenue Code in determining federal taxable income by an individual
2.18 who does not itemize deductions for federal income tax purposes for the taxable year, an
2.19 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
2.20 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code,
2.21 under the provisions of Public Law 109-1 and Public Law 111-126;

2.22 (7) for individuals who are allowed a federal foreign tax credit for taxes that do not
2.23 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
2.24 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
2.25 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
2.26 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
2.27 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
2.28 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
2.29 the extent they exceed the federal foreign tax credit;

2.30 (8) in each of the five tax years immediately following the tax year in which an
2.31 addition is required under subdivision 19a, clause (7), or 19c, clause (12), in the case of a
2.32 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
2.33 delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount
2.34 of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c,
2.35 clause (12), in the case of a shareholder of an S corporation, minus the positive value of

3.1 any net operating loss under section 172 of the Internal Revenue Code generated for the
3.2 tax year of the addition. The resulting delayed depreciation cannot be less than zero;

3.3 (9) job opportunity building zone income as provided under section 469.316;

3.4 (10) to the extent included in federal taxable income, the amount of compensation
3.5 paid to members of the Minnesota National Guard or other reserve components of the
3.6 United States military for active service, including compensation for services performed
3.7 under the Active Guard Reserve (AGR) program. For purposes of this clause, "active
3.8 service" means (i) state active service as defined in section 190.05, subdivision 5a, clause
3.9 (1); or (ii) federally funded state active service as defined in section 190.05, subdivision
3.10 5b, and "active service" includes service performed in accordance with section 190.08,
3.11 subdivision 3;

3.12 (11) to the extent included in federal taxable income, the amount of compensation
3.13 paid to Minnesota residents who are members of the armed forces of the United States
3.14 or United Nations for active duty performed under United States Code, title 10; or the
3.15 authority of the United Nations;

3.16 (12) an amount, not to exceed \$10,000, equal to qualified expenses related to a
3.17 qualified donor's donation, while living, of one or more of the qualified donor's organs
3.18 to another person for human organ transplantation. For purposes of this clause, "organ"
3.19 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
3.20 "human organ transplantation" means the medical procedure by which transfer of a human
3.21 organ is made from the body of one person to the body of another person; "qualified
3.22 expenses" means unreimbursed expenses for both the individual and the qualified donor
3.23 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
3.24 may be subtracted under this clause only once; and "qualified donor" means the individual
3.25 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
3.26 individual may claim the subtraction in this clause for each instance of organ donation for
3.27 transplantation during the taxable year in which the qualified expenses occur;

3.28 (13) in each of the five tax years immediately following the tax year in which an
3.29 addition is required under subdivision 19a, clause (8), or 19c, clause (13), in the case of a
3.30 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.31 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (13), in the
3.32 case of a shareholder of a corporation that is an S corporation, minus the positive value of
3.33 any net operating loss under section 172 of the Internal Revenue Code generated for the
3.34 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
3.35 subtraction is not allowed under this clause;

4.1 (14) to the extent included in the federal taxable income of a nonresident of
4.2 Minnesota, compensation paid to a service member as defined in United States Code, title
4.3 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief
4.4 Act, Public Law 108-189, section 101(2);

4.5 (15) to the extent included in federal taxable income, the amount of national service
4.6 educational awards received from the National Service Trust under United States Code,
4.7 title 42, sections 12601 to 12604, for service in an approved Americorps National Service
4.8 program;

4.9 (16) to the extent included in federal taxable income, discharge of indebtedness
4.10 income resulting from reacquisition of business indebtedness included in federal taxable
4.11 income under section 108(i) of the Internal Revenue Code. This subtraction applies only
4.12 to the extent that the income was included in net income in a prior year as a result of the
4.13 addition under subdivision 19a, clause (13);

4.14 (17) the amount of the net operating loss allowed under section 290.095, subdivision
4.15 11, paragraph (c);

4.16 (18) the amount of expenses not allowed for federal income tax purposes due
4.17 to claiming the railroad track maintenance credit under section 45G(a) of the Internal
4.18 Revenue Code;

4.19 (19) the amount of the limitation on itemized deductions under section 68(b) of the
4.20 Internal Revenue Code;

4.21 (20) the amount of the phaseout of personal exemptions under section 151(d) of
4.22 the Internal Revenue Code; ~~and~~

4.23 (21) to the extent included in federal taxable income, the amount of qualified
4.24 transportation fringe benefits described in section 132(f)(1)(A) and (B) of the Internal
4.25 Revenue Code. The subtraction is limited to the lesser of the amount of qualified
4.26 transportation fringe benefits received in excess of the limitations under section
4.27 132(f)(2)(A) of the Internal Revenue Code for the year or the difference between the
4.28 maximum qualified parking benefits excludable under section 132(f)(2)(B) of the Internal
4.29 Revenue Code minus the amount of transit benefits excludable under section 132(f)(2)(A)
4.30 of the Internal Revenue Code; and

4.31 (22) the amount equal to the contributions made during the tax year to a Minnesota
4.32 college savings plan organized under chapter 136G, not including amounts rolled over
4.33 from other college savings plan accounts, and not to exceed \$3,000 for married couples
4.34 filing joint returns and \$1,500 for all other filers. The subtraction allowed under this clause
4.35 must not include any amount used to claim the credit allowed under section 290.0693.

5.1 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.2 December 31, 2014.

5.3 Sec. 2. **[290.0693] MINNESOTA COLLEGE SAVINGS PLAN CREDIT.**

5.4 Subdivision 1. **Definitions.** For purposes of this section, the terms "Minnesota
5.5 college savings plan," "account," "nonqualified distribution," and "plan administrator"
5.6 have the meanings given them in chapter 136G.

5.7 Subd. 2. **Credit allowed.** (a) A credit of up to \$500 is allowed against the tax
5.8 imposed by this chapter, subject to the limitations in paragraph (b).

5.9 (b) The credit allowed must be calculated by applying the following rates to the
5.10 amount contributed to a Minnesota college savings plan, as established in chapter 136G,
5.11 in a taxable year:

5.12 (1) 200 percent for individual filers and married couples filing a joint return who
5.13 have federal adjusted gross income of not more than 150 percent of the federal poverty
5.14 guideline for a household size of four;

5.15 (2) 100 percent for individual filers and married couples filing a joint return who
5.16 have federal adjusted gross income over 150 percent, but not more than 200 percent of
5.17 the federal poverty guideline for a household size of four;

5.18 (3) 50 percent for individual filers and married couples filing a joint return who have
5.19 federal adjusted gross income over 200 percent of the federal poverty guideline for a
5.20 household size of four, but not more than \$80,000;

5.21 (4) 25 percent for married couples filing a joint return who have federal adjusted
5.22 gross income over \$80,000, but not more than \$100,000;

5.23 (5) ten percent for married couples filing a joint return who have federal adjusted
5.24 gross income over \$100,000, but not more than \$120,000; and

5.25 (6) five percent for married couples filing a joint return who have federal adjusted
5.26 gross income over \$120,000, but not more than \$160,000.

5.27 (c) The \$80,000 in paragraph (b), clause (3), and the dollar amounts in paragraph
5.28 (b), clauses (4) to (6), used to calculate the credit must be adjusted for inflation. The
5.29 commissioner shall adjust by the percentage determined pursuant to the provisions of
5.30 section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word
5.31 "2014" shall be substituted for the word "1992." For 2016, the commissioner shall then
5.32 determine the percent change from the 12 months ending on August 31, 2014, to the 12
5.33 months ending on August 31, 2015, and in each subsequent year, from the 12 months
5.34 ending on August 31, 2014, to the 12 months ending on August 31 of the year preceding
5.35 the taxable year. The earned income thresholds as adjusted for inflation must be rounded

6.1 to the nearest \$10 amount. If the amount ends in \$5, the amount is rounded up to the
6.2 nearest \$10 amount. The determination of the commissioner under this subdivision is not
6.3 a rule under the Administrative Procedure Act including section 14.386.

6.4 (d) The amount used to claim the credit under this section must be excluded from
6.5 any amount subtracted from federal taxable income under section 290.01, subdivision
6.6 19b, clause (22).

6.7 Subd. 3. **Credit transfer.** (a) The credit allowed under this section must be
6.8 calculated after applying all other credits to the taxpayer's tax liability. If the amount of
6.9 credit that the taxpayer is eligible to receive under this section exceeds the taxpayer's tax
6.10 liability after applying all other credits, the commissioner shall transfer the excess amount
6.11 pursuant to the requirements of paragraph (b).

6.12 (b) The commissioner shall transfer the excess amount calculated under paragraph
6.13 (a) to the plan administrator to be deposited to the taxpayer's Minnesota college savings
6.14 plan account. If the taxpayer made contributions to more than one account, the credit
6.15 amount must be allocated based on the contributions to each account as a percentage
6.16 of the total contributions to all accounts.

6.17 Subd. 4. **Verification of contribution amounts.** The commissioner of the Office of
6.18 Higher Education must provide sufficient information to the commissioner of revenue to
6.19 verify the taxpayer's annual contribution amounts to an account.

6.20 Subd. 5. **Recapture of credit.** In the case of a nonqualified distribution, the
6.21 taxpayer is liable to the commissioner for the lesser of: ten percent of the amount of the
6.22 nonqualified distribution, or the sum of credits received under this section for all years.

6.23 Subd. 6. **Appropriation.** An amount sufficient to pay the refunds required by this
6.24 section is appropriated to the commissioner from the general fund.

6.25 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
6.26 December 31, 2014.